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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,631	03/01/2000	PIERRE JEANVOINE	1247-0822-0V	4206

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

VINCENT, SEAN E

ART UNIT	PAPER NUMBER
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1731

20

DATE MAILED: 01/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/381,631

Applicant(s)

JEANVOINE ET AL.

Examiner

Sean E Vincent

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mk-20

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-116 is/are pending in the application.
- 4a) Of the above claim(s) 41,47-49,51-55,57-76,79-97,99 and 107-114 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-40,42-46,50,56,77,78,98,100-106,115 and 116 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18 ✓
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I : claims 38-40, 42-46, 50, 56, 77, 78, 98 and 100-106 in Paper No. 17 is acknowledged. The traversal is on the ground(s) that the examiner has examined "in essence" all of the presently claimed subject matter. This grounds for argument is not found persuasive because it does not point the supposed error(s) in the restriction requirement.
2. Further, applicant has amended the non-elected claims and changed their scope twice since the office action of May 9, 2001.
3. Applicant also has argued that groups I and II are not distinct because the claims of group II ultimately depend from Claim 38 of group I. This is not found persuasive because it does not point out which particulars of the subcombination are required for the patentability of the combination.
4. Applicant also has argued that groups I and III are not distinct because the invention of claim 57 is limited to practicing the process of group I. This is not found persuasive since the method of use does not limit the machine as claimed which contains no glass manufacturing apparatus elements.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 38-40, 42-46, 50, 56, 77, 78, 98, 100-106, 115 and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Floyd et al (US 5615626) in view of Dolf et al (US 3260587).

8. Features of applicant's claims can be found in the abstract, figures, col. 2, line 26 to col. 4, line 10; col. 5, line 34 to col. 6, line 60; col. 7, lines 39-48; col. 8, lines 6-38; col. 10, lines 20-35 and the example. The recitation of "municipal waste" in Floyd et al is considered to include various "glazings".

9. Floyd et al does not teach glass manufacturing processes per se. Floyd et al produced materials used in landfills or as building materials which were known to contain glassy phases (see Floyd et al, col. 6, lines 50-60). Dolf et al taught submerged combustion melting to process cullet and glass batch into glass products (see col. 1, lines 35-49). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the process of Floyd et al to produce any form of glass product because Dolf et al taught that the same melting techniques as Floyd et al were known for processing mostly glass materials such as cullet. A

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person of ordinary skill in the art would have expected that the proportion of glass produced in such a process depended directly from the proportion of glass charged into the process.

10. Floyd et al and Dolf et al do not expressly teach forming sheet, bottles, fibers, foamy glass or electronic parts. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to make any one of various known forms of glass products using the combined teachings of Floyd et al and Dolf et al because the intended use of the molten glass does not result in a manipulative difference as compared to the combined teachings of Floyd et al and Dolf et al to make molten glass.

### ***Response to Arguments***

11. Applicant's arguments filed November 4, 2002 have been fully considered but they are not persuasive.

12. In response to the argument that Floyd et al does not teach vitrifiable materials, the examiner disagrees. Recitations in Floyd et al of slag or flux constitute vitrifiable materials. This is made clearer by col. 6, lines 50-60 and also the table in col. 13 of Floyd et al.

13. In response to the argument that Floyd et al does not pertain to glass recycling, the examiner disagrees. Slag is a glassy byproduct or waste material and Floyd et al discloses processes of converting slag and other waste materials into useful materials which are at least partially glassy as well.

14. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching,

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suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Floyd et al and Dolf et al are both concerned with converting glassy waste materials into useful materials. Floyd et al processes slag and other waste materials into glassy building materials. Dolf et al processes cullet (broken glass) into glass and various chemicals or salts into glass (see also Dolf et al, col. 4, lines 47-61). Apart from the possible greater percentage of glass melted in Dolf et al, the methods of Floyd et al and Dolf et al are almost identical. As stated in the rejection, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Dolf et al with Floyd et al because Dolf et al taught that Floyd et al's process had the ability to produce glass products. In the alternative, it would have also been obvious to combine Floyd et al with Dolf et al because Floyd et al taught that combustible matter in the feed materials would have acted as extra fuel for the melting of the non combustible matter.

15. In response to the argument that Floyd et al was not concerned with melting waste, the examiner disagrees. Floyd et al clearly states in col. 8, lines 6-25 that some of the waste is combusted or oxidized and the remainder is "simply dissolved into the slag bath". Note also that slag is another form of waste.

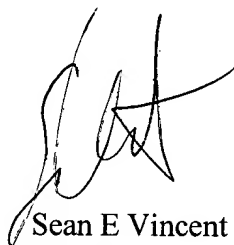
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*Conclusion*

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E Vincent whose telephone number is 703-305-3607. The examiner can normally be reached on M - F (8:30 - 6:00) Second Monday Off.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

A handwritten signature in black ink, appearing to read 'SEV', is positioned above the printed name and title of the examiner.

Sean E Vincent  
Primary Examiner  
Art Unit 1731

S Vincent  
January 7, 2003